



DOCKET NO. 2000.04.017.WT0
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Bryan J. Moles, et al.
Serial No. : 09/475,602
Filed : December 30, 1999
For : SYSTEM AND METHOD FOR SECURE PROVISIONING
OF A MOBILE STATION FROM A PROVISIONING
SERVER USING IP ADDRESS TRANSLATION AT THE
BTS/BSC
Art Unit : 2135
Examiner : Beemnet W. Dada

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicants hereby request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejection of some or all claims.

The Rejection of Claims 4-7, 12-15 and 18-20 is Legally and Factually Deficient

In Section 9 of the final rejection mailed December 31, 2007, Examiner Dada rejects Claims 4-7, 12-15 and 18-20 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,587,684 to *Hsu, et al.*

Claim 4, depending from Claim 1, further recites a second controller capable of determining that a mobile station is unprovisioned. Having asserted that Hsu's proxy gateway/server 20 describes the first controller of Claim 1, Examiner Dada fails to identify in the cited passages where Hsu describes the second controller recited in Claim 4.

Claim 5, depending from Claim 4, further recites that the second controller determines that the unprovisioned mobile station is unprovisioned if the unprovisioned mobile station is unable to authenticate to the wireless network. In contrast, the cited passages clearly describe only a gateway that accesses a database to determine whether a digital telephone is activated.

Claim 6, depending from Claim 4, further recites that the second controller determines that the unprovisioned mobile station is unprovisioned according to a predetermined telephone number associated with a service provisioning process selected by the unprovisioned mobile station. Again, the cited passages clearly do not describe such a second controller.

Claim 7, depending from Claim 4, further recites that the second controller determines that the unprovisioned mobile station is unprovisioned according to data retrieved from a home location register associated with the wireless network. The user database 28 described in the cited passages stores an international mobile station identify (IMSI), a security key, and an 'active' status mode indication. *See Hsu, col. 15, lines 13-29, and Claims 6, 24 and 33.* The user database 28 is clearly not a home location register, as recited in Claim 7.

The Hsu reference fails to describe all the limitations of Claims 4-7, as required to establish a *prima facie* case of obviousness, and the Applegate reference fails to overcome the shortcomings of the Hsu reference. Claims 12-15 and 18-20 recite limitations analogous to those recited in Claims

4-7. Therefore, Examiner Dada's rejection of Claims 4-7, 12-15 and 18-20 is legally and factually deficient.

The Rejection of Claims 1 and 17 is Legally and Factually Deficient

In rejecting independent Claims 1 and 17, Examiner Dada asserted that Hsu describes transmitting the URL of a selected one of a plurality of provisioning servers to a wireless device. This assertion is factually incorrect. Hsu teaches only a single provisioning server, indicated by reference character 24 in Figure 1. Hsu does not describe a plurality of provisioning servers and, therefore, can neither describe nor suggest transmitting the URL of a selected one of a plurality of provisioning servers, as asserted by Examiner Hsu.

The Hsu reference fails to describe all the limitations of Claims 4-7, as required to establish a *prima facie* case of obviousness, and the Applegate reference fails to overcome the shortcomings of the Hsu reference. Therefore, the rejection of Claims 1 and 17 is legally and factually deficient.

The Rejection of Claims 8 and 16 is Legally and Factually Deficient

Claims 8 and 16 recite that the one of the plurality of provisioning servers is selected according to a load spreading algorithm. Examiner Dada asserts that Applegate describes selecting an IP address according to a load sharing algorithm in column 5, lines 34-65. This assertion is factually incorrect.

The cited passage is reproduced below for the panel's convenience.

The message packet is then passed along 366 to TCP/IP 226. The modified message packet has: source IP address 199.198.10.2, source port 1024, destination IP address 199.198.10.1, and destination port 21. The IP layer then examines the IP header, determines that the message is destined for the Firewall machine and accepts it. TCP/IP passes the message along to the FTP proxy, which is listening for

incoming messages. The FTP proxy 310 obtains the message, verifies that the FTP connection is permitted by an access control entry, and hides the internal source of the message from the external network. *Applegate, col. 5, lines 34-64*

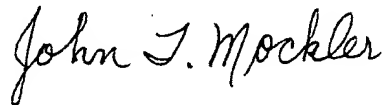
There is clearly no description in the cited passage of selecting an IP address according to a load sharing algorithm, as asserted by Examiner Dada. In fact, Applegate describes a firewall that reroutes an FTP packet to a local FTP proxy by replacing the IP address of an external FTP server with the IP address of the FTP proxy. There is only a single FTP proxy in Applegate, therefore Applegate provides neither teaching nor suggestion of load sharing, much less a load sharing algorithm.

The Applegate reference fails to describe all the limitations of Claims 4-7, as required to establish a *prima facie* case of obviousness, and the Hsu reference fails to overcome the shortcomings of the Applegate reference. Therefore, the rejection of Claims 8 and 16 is legally and factually deficient.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS CARTER, P.C.



John T. Mockler
Registration No. 39,775

Date: March 31, 2008
P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: jmockler@munckbutrus.com